REMARKS

Applicant respectfully traverse and request reconsideration.

Claims 2, 4-6, 13, 15-18, 23 and 25 currently stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0091518 A1 (hereinafter referred to as "Baruch") in view of U.S. Patent No. 6,006,183 (hereinafter referred to as "Lai"). Applicant respectfully traverses and requests reconsideration.

Claims 23 and 25 are directed to, *inter alia*, an apparatus for multi-leveled distributive speech recognition including "accessing a content server in response to the at least one recognized audio command." In the present Office Action on page 3, the Examiner asserts that "using the recognizer to choose and transfer a language contained in a database (content server) or information from a device (PDA) over the communication links (¶44, penultimate sentence, ¶47, FIG 1, 30, ¶5), which corresponds to 'accessing a content server in response to the at least one recognized audio command.'" Furthermore, in the Response to Arguments section on page 18 of the present Office Action, the Examiner asserts that "Baruch teaches that a user may choose a language by uttering its name, which requires the transfer of the language specific data from a database (content server) (¶44)." Moreover, on page 19 of the present Office Action, the Examiner asserts that "Baruch states (¶44) that the 'user may choose that language by uttering its name.' This inherently implies the accessing of a list of languages (for recognition) and, after recognition, the transfer of the language specific data from a data store." While Applicant appreciates the clarity and conciseness of the Examiner's position, Applicant must respectfully traverse and submit that the Examiner has improperly associated the ability to choose a specific language for one of the speech recognition engines as disclosed by Baruch as teaching or suggesting the claimed limitation of "accessing a content server in response to the at least one recognized audio command."

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For the sake of brevity, Applicant respectfully resubmits the characterizations of the teachings of Baruch and Lai as previously submitted in the response to the first Office Action, the response filed November 20, 2002.

In the present Application, beginning on page 8, line 22-page 9, line 3, the present specification provides that:

> If the audio command is a request for information from a content server, the dialog manager accesses the content server and retrieves encoded information. Operably coupled to the dialog manager is at least one content server, <u>such as a commercially available server coupled via an Internet, a local resident server via an Intranet, a commercial application server such as a banking system, or any other suitable content server.</u> (*emphasis added*).

Furthermore, FIG. 2 illustrates the content server 138 coupled to the dialog manager 134 whereupon the content server 138 may be accessed in response to a recognized audio command produced by the comparator 128 and the dialog manager 134.

Regarding the teachings of Baruch, Applicant must respectfully traverse the Examiner's assertion that the selection of a particular language for a digit recognizer discloses the claimed accessing and content server. More specifically, the Examiner-cited paragraph 44 provides that:

> Device 10 may contain the list of available languages, which the user may choose from, for example when setting the properties of device 10. A list of available languages, for example a subset comprised in the previously selected languages, maybe displayed on a display unit 32. The user may navigate this list to choose a language, for example using verbal commands such as UP or DOWN and/or using buttons or other appropriate physical means. In another embodiment of the invention, the user may choose the language by uttering its name.

The Examiner further cites paragraph 47 of Baruch which discloses, *inter alia*, the creation of a user-specific pronunciation database or a speaker dependent speech recognition engine which would require training. "After the training is completed, the new DDL maybe added to the <u>existing database of libraries stored in engine association unit</u> and the user may use the newly created DDL, for example to dial a number." (¶47) (*emphasis added*). Moreover, ¶22 of Baruch discloses that "device 10 may further

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comprise recognition libraries associated with the plurality of recognition engines. These libraries maybe stored in engine associated unit 20, a control unit 18, or within the engines themselves."

Applicant respectfully submits that Baruch discloses, *inter alia*, accessing one of a plurality of vocabularies from a lookup table stored within the engine association unit 20. Applicant further submits that the engine association unit 20 is not a content server and therefor based on the user selecting a particular type of language either through a navigational menu or saying the actual name of the language itself and the engine association unit 20 supplementing a particular vocabulary for a speaker dependent digital dialing voice recognition engine (such as 22 of FIG. 1) is inconsistent with the claimed limitation of accessing a content server in response to the recognized audio command.

Furthermore, Applicant respectfully submits that Baruch fails to teach or suggest accessing the content server in response to the recognized audio command because Baruch teaches the language vocabularies being stored within the engine association unit 20 and the speech recognition engines utilizing the vocabulary within the engine association unit 20 to recognize a particular input. Therefor, the Examiner's assertion of the language being equivalent to or disclosing the claimed limitation of "accessing a content server in response to recognized audio command," creates a conundrum. Assuming *arguendo*, if the engine association unit 20 acts similar to the content server 20 and stores the language therein, the engine association unit 20 is accessed in response to an unrecognized command for the purpose of being recognized by one of the speech recognition engines when a user is trying to activate a voice dialing command. Furthermore, with regards to the engine association unit 20 being accessed with regards to selecting a chosen language, Baruch fails to teach or suggest accessing the engine association unit 20 in response to a spoken command but rather utilizes the engine association unit 20 as a reference for determining which languages are available. Applicant respectfully notes that Baruch does not disclose loading a vocabulary into a speech recognition engine from the engine association unit 20. Furthermore, in the event the engine association unit 20 hosts a speaker dependent or trained language, the engine association unit would not be accessed in response to a recognized audio command, but

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by its very nature of a trained or speaker dependent speech recognition language would be recognized in response to an un-recognized audio command.

Stated another way, Baruch succinctly discloses a system allowing a user to input a spoken command into a speaker independent command and control (SICC engine 26) to execute a specific command such as CALL, DIAL, ADDRESS BOOK, etc. The SICC engine 26 recognizes the command and thereupon provides for the multiengine control unit 18 to selectively activate one or more of the plurality of speaker dependent and/or speaker independent recognition engines (such as 22, 24, 25 and 28). Therefor, should an end user utilizing the system as disclosed by Baruch speak the command DIAL, the SICC engine 26 recognizes the command and then instructs the multi-engine control unit 18 to activate specific speech recognition engines, such as the SDDD-LI engine 22 and/or the SIDD-M engine 28. (¶43). In the event the user wishes to select a particular language for dialing, as indicated by the Examiner, Baruch discloses that once a particular language has been recognized, the engine association unit 20 is not directly accessed in response to the recognized language command, but rather the particular language lookup table may be so designated for access by one of the digital dial speech recognition engines.

Furthermore, in accordance with the disclosed operation of Baruch, a user may thereupon then speak a particular dial-in command such as a digit or other predetermined entries. Baruch fails to disclose that the engine association unit 20 is accessed directly in response to the recognized audio command, but more specifically discloses that the engine association unit 20 is accessed to determine the recognized audio command such that a number may be created to allow for voice activated dialing. Therefor, Applicant respectfully submits that the Examiner's assertion that Baruch teaches or discloses the claimed limitation of accessing a content server in response to recognized audio command as being disclosed by a user choosing a language by uttering its name as disclosed by Baruch is improper. As such, Applicant requests reconsideration and withdrawal.

On page 18 in the response to arguments section of the present Office Action, the Examiner further asserts that "Baruch teaches that one of the voice commands could be MESSAGES, which after recognition would inherently initiate the transfer of e-mail messages from a 'content server.'" Moreover, on page 20, the Examiner reiterates that utilizing the MESSAGES command inherently implied that the access of the remote data storage device such as a content server. Applicant respectfully traverse and submit that the Examiner has improperly applied the teachings of Baruch with regards to this claimed limitation, the Examiner has improperly asserted an inherent teaching based on the limited disclosure of the published application of Baruch.

While the majority of case law regarding the permissibility of an inherency argument with regards to a claimed limitation involves a rejection under 35 U.S.C. §102, Applicant respectfully submits that wherein the Examiner provides a primary reference for teaching specific limitations in and of itself, without being disclosed by the combination of multiple references, the asserted case law is as applicable to the primary or individual reference under the 35 U.S.C. §103(a) rejection. Therefor, Applicant respectfully submits the following case law is herein applicable with regards to teachings of Baruch as applied to the claimed present invention. In Scaltech Inc. v. Retec/Tetra, L.L.C., 178 F.3d 1378, 51 USPQ2d 1055 (Fed. Cir. 1999), revising 156 F.3d 1193, 48 USPQ2d 1037 (Fed. Cir. 1998), the Court of Appeals for the Federal Circuit (CAFC) held that "inherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient to establish inherency. See Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1269 20 USPQ2d 1746, 1749 (Fed. Cir. 1991)." Furthermore, "an inherent property must necessarily be present in the invention described by the count, and it must be so recognized by person of ordinary skill in the art. See Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1269 20 USPQ2d 1746, 1749 (Fed. Cir. 1991)." Hitzeman v. Rutter, 243 F.3d 1345, 58 USPQ2d 1161 (Fed. Cir. 2001). Moreover, in Telemac Cellular Corp. v. Top Telcom, Inc., 247 F.3d 1316, 58 USPQ2d 1545 (Fed. Cir. 2001), the CAFC upheld that "recourse to extrinsic evidence is proper to determine whether a feature, while not explicitly discussed is necessarily present in the reference." Moreover, Telemac further asserts that "the evidence must make clear that the missing feature is

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necessarily present and that it would be so recognized by persons of ordinary skill in the relevant art." Furthermore, "a reference includes an inherent characteristic if the characteristic "natural result" flowing from the references explicitly explicated limitations." Eli Lilly & Co. v. Barr Laboratories, Inc., 251 F.3d 955, 58 USPQ2d 1865 (Fed. Cir. 2001).

Based on the disclosure of Baruch, Applicant respectfully submits the Examiner has improperly asserted the inherency teaching that Baruch discloses accessing a content server to retrieve e-mail messages. Baruch discloses in paragraph 22 the elements as illustrated in FIG. 1 consisting of a microphone 12, an A/D converter 14, a vocoder 16, a multi-engine control unit 18, an engine association unit 20, a digital communication unit 30, an optional display unit 32, an optional antenna 36, and an optional loud speaker 34. Applicant further submits that the only disclosure Baruch provides regarding any particular operations beyond either voice activated dialing are provided on ¶49 which asserts that "a further embodiment of the present invention, system 10 may include additional recognition engines for execution of activities other dialings, for example, for scheduling appointments, recording memos, sending and receiving fax and e-mail messages and the like."

In the present Office Action, the Examiner has asserted that the teaching of allowing the command of MESSAGES inherently discloses initiating the transfer of e-mail messages from a content server to which Applicant respectfully disagrees. Baruch discloses a self contained system allowing for voice activated dialing by either voice recognition of a particular name or voice recognition of digits and other elements to provide for hands free dialing. As discussed above, FIG. 1 illustrates the sole combination of elements as discussed by Baruch, which does not include any discussion regarding content servers that contain e-mail messages. Therefor, it is improper for the Examiner to provide inherent limitations as being disclosed herein based on a single sentence that provides for alternative embodiments without providing any particular enablement or other type of disclosure regarding how the system of Baruch would be modified to allow for accessing an outside server. Furthermore, as recognized by having ordinary skill in the art, there exists many different possibilities for having messages

communicated in a stand alone system, such as a PDA without accessing content servers. For example, a standard PDA may allow for off-line execution whereupon messages maybe uploaded in a synchronization activity across a bus, such as a Universal Serial Bus. Furthermore, while working in an off-line manner, e-mails maybe composed but they may not be provided to a content server until the PDA is resynchronized with a main processing system. As such, it is beyond the knowledge of one having ordinary skill in the art based on the teachings of Baruch to provide for a communication system which automatically and inherently accesses a content server simply in response to the spoken command messages, wherein messages maybe stored not in a content server but simply in a buffer resident on the system, such as within the engine association unit 20 which stores all the language lookup tables. As such, applicant submits that speaking an SICC command MESSAGES to retrieve e-mails does not inherently imply accessing an e-mail content server.

Assuming arguendo, Baruch discloses that the message command is directly recognized by the SICC engine 26. Claims 23 and 25 recite, *inter alia*, recognizing an audio command within a plurality of speech recognition engines in selecting at least one recognized audio command based on one of the associated confidence values. Therefor, an initial command is only recognized by the SICC engine 26 which means that the Examiner's interpretation of the teachings of Baruch are flawed because Baruch does not teach or suggest the multiple speech recognition engines with regards to an input command provided to the speaker independent engine-commands and control (SICC).

Regarding claim 2, Applicant respectfully traverse the Examiner's assertions made in the first full paragraph of page 4 o the present Office Action. Applicant respectfully reasserts the above position regarding the Examiner's improper submission of an inherency position with regards to the limitation of "receiving encoded information from the content server." In support of the present position, the Examiner cites FIG. 1, element 30, ¶5 and ¶49, to which Applicant resubmits that these elements and passages do not provide adequate support for the present rejection.

More specifically, ¶49 is directed to providing various languages and feature-commands libraries for utilizing operations in response to the input commands in an alternative embodiments of Baruch. The only example Baruch gives in paragraph 49 is when an input command is CALENDAR, that a recognition engine maybe programmed or provide for recognizing dates and times. Applicant respectfully resubmits the above position that the seven words within the full metes and bounds of the disclosure of the published application of Baruch of "sending and receiving fax and e-mail messages," does not provide adequate support for the limitation of "receiving encoded information from the content server." One of ordinary skill in the art would not recognize, based on the extremely limited disclosure of an alternative embodiment of Baruch, that Baruch discloses accessing a content server for providing this information, wherein one of ordinary skill in the art based on the limitations of Baruch only disclosing a digital communication unit 30 for providing contact via the antenna 36 for a digital dialing or hands free speech recognition dialing access would not thereupon have a system where the digital communication 30 via the antenna 36 wirelessly connects with a content server. But rather, the full disclosure of Baruch indicates that the engine association unit 20 provides a memory repository for various elements to be stored therein, whereas these other commands, if executed, maybe processed via the engine association unit 20. For example, Baruch gives a single example of the calendar, but does not provide any indication as to the implementation of and/or how and/or where data related to the calendar maybe stored within this processing unit. As such, Applicant respectfully submit that the disclosure of Baruch fails to support the Examiner-asserted inherency of teaching accessing the content server and thereupon receiving encoded information from the content server.

Applicant further must respectfully submits that as Baruch does not teach receiving encoded information, it further stands to reasons that Baruch does not teach or suggest decoding the encoded information which is received from the content server. As such, Applicant requests reconsideration and withdrawal.

Regarding claims 4-6, 13 and 15-18, Applicant respectfully that these claims contain further patentable subject matter in view of the prior art of record. Applicant

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further respectfully submits the above position offered with regards to claims 23 and 25 and claim 2 that claims for 4-6, 13 and 15-18 contain further patentable subject matter and are not allowable merely as being dependent upon an allowable base claim. As such, Applicant requests reconsideration and withdrawal and the passage of claims 23, 25, 2, 4-6, 13 and 15-18 to issuance. Should the Examiner maintain the present rejection, Applicant respectfully requests a showing in support of the Examiner's position regarding the inherency of Baruch to disclose the accessing of a content server in response to an alternative unsupported embodiments of allowing for an input command of MESSAGES. Furthermore, should the Examiner maintain the present rejection, Applicant further requests clarification of the Examiner's position with regards to the assertion that the engine association unit 20 is equivalent to a content server and that the engine association unit 20 is accessed in response to a selected recognized audio command, wherein as stated above, Applicant submits that the engine associated unit 20 is only accessed to provide a list of available languages or to provide a reference for a selected language when providing for speaker dependent or speaker independent digital dialing.

Claims 3, 8-11, 21-22, 24 and 26 currently stand rejected under 35 U.S.C. §103(a) as being unpatentable over Baruch in view of Lai and further in view of U.S. Patent No. 6,122,613 (hereinafter referred to as "Baker"). Applicant respectfully traverses and requests reconsideration.

For the sake of brevity, Applicant respectfully resubmits the previously submitted characterization of the teachings of Baker, as asserted beginning on page 9 of the response to the first Office Action.

Regarding claim 3, Applicant respectfully resubmit the above position offered with regards to claim 23 and submit that claim 3 contains further patentable subject matter in view thereof. As such, Applicant requests reconsideration and withdrawal and the passage of claim 3 to issuance.

Regarding claims 24 and 26, Applicant respectfully traverses the Examiner's characterization and the application of the prior art references with regards to the claimed

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limitations. As discussed above, Applicant re-submits that, among other things, the combination of Baruch, Lai and Baker fail to teach or suggest the limitation of "accessing a content server in response to the at least one recognized audio command." As discussed above with regards to claims 23 and 24, Applicant respectfully resubmits that Baruch teaches a system that, upon recognition, either activates another speech recognition engine, provides an output to a display unit, or dials a telephone number with the digital communication unit 30, Lai, upon speech recognition, provides the multiple outputs with their accompanying attributes 110, 120 and 130 to a GUI display 105, and Baker, based upon the speech recognition, provides a visual output on a monitor 305. As such, none of the references, either individually or in combination thereof, teaches or suggests all of the claimed limitations.

On page 16 of the present Office Action, the Examiner asserts that the engine association unit 20 and the digital communication unit 30 disclose access databases, as supported by paragraphs 47 through 49 of Baruch, to which Applicants respectfully traverse. Paragraph 47 asserts that a new DDL may be added to an existing database of libraries stored in the engine association unit 20 and paragraphs 48 and 49 are silent regarding either the engine association unit 20 and the digital communication unit 30. Based on the Examiner-assertion, the Examiner has further indicated the disclosure of the claimed limitation of "accessing the content server," where the Examiner has presumably made the assertion that the engine association unit 20 and/or the digital communication unit 30 are the claimed content server. Applicant respectfully traverses this assertion and resubmits the above position that Baruch fails to disclose the claimed limitation of, *inter alia*, "accessing a content server."

Therefore, even if one of ordinary skill in the art were to combine the teachings of Baruch, Lai and Baker, the combination thereof fails to teach or suggest all of the claimed limitations. As such, Applicant requests reconsideration and withdrawal.

Regarding claims 8-11 and 21-22, it is respectfully submitted that these claims contain further patentable subject matter in view of the combination of Baruch, Baker and Lai. For example, claim 8 recites "prior to accessing a content server, generating an error

notification." As discussed above, none of the prior art references discloses accessing a content server, therefore these claims contain further patentable subject matter in view of the prior art of record.

As such, Applicant respectfully requests reconsideration and withdrawal and the passage of claims 3, 8-11, 21-22, 24 and 26 to issuance.

Accordingly, Applicant respectfully submits that the claims are in condition for allowance and that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the below-listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

Respectfully submitted,

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